

CHIEF JUDGE'S JUDGMENT ON KAUAERANGA 14.

Given 9th February, 1870

GRAHAM v. LUNDON and WHITAKER.

THE opinions on points of law expressed respecting K. 16, apply also to this case. Applicant's dealings with the Natives appear to have been perfectly fair, and to have been well understood by them, and the lease must therefore be supported "*Ubi eadem ratio ibi idem jus.*"

On reflection, I cannot think that Mr. Graham's statement of his wishes, as given in his evidence, ought to have much affected the mind of the Court. It simply appears that his ideas of the law as affecting his rights are much the same now as they were two years ago. His application to the Court, under the Act of 1866, is the true exponent of what he wants; besides, even if inclined to attach more importance to his statement than I now think we are called upon to do, consideration for the sub-lessees should prohibit our allowing them to suffer by his inadvertance.

As the opponents contemplate future proceedings, it should be added that, in forming judgment, I attached no importance to the fact that Mr. Graham's arrangements with the Natives were made and that he was in possession of the land before the sitting of the Court, when the title of the Natives was proved.

And I think I ought to state that the proceedings of the objectors, as disclosed in the evidence, have, in my judgment, been so clearly repugnant to principles of justice, so entirely unfair between "man and man," that I should not have hesitated to use the powers given to the Court under section 8 in favour of Mr. Graham, even if they had obtained a clear right at law.

The petition referred to related to three lots of land.

I have here my judgment relating to one of them, K. 14, which I enclose herewith. I think I have seen K. 16 in Wellington, but am not certain. K. 23, I have no recollection of. I will see about it when I get to Auckland.

F. D. FENTON,
Chief Judge.
